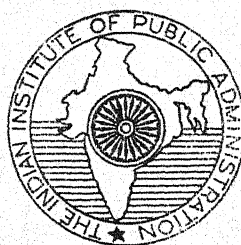


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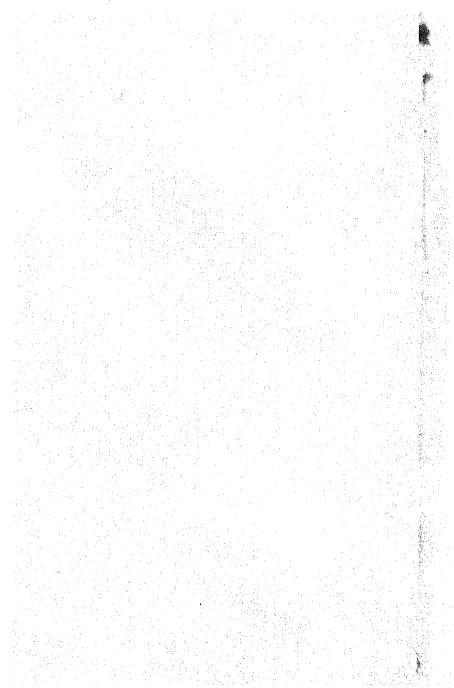
THE QUESTION OF A PARLIAMENTARY COMMITTEE
FOR PUBLIC ENTERPRISES



INDRAPRASTHA ESTATE
RING ROAD
NEW DELH • 1

October 1960

Price Re. 1.00



E R R A T A

<u>PAGE</u>	<u>LINE</u>	<u>FOR</u>	<u>READ</u>
5	7	unadventerous	unadventurous
5	9	Geofrey	Geoffrey
5	13	horified	horrified
9	4	to	in
9	6	and persuasion	persuasion
14	27	canada	Canada
15	13	corporations" ²⁴	corporations. ²⁴
16	15	corporations	corporation
21	1	cour-de-comptes	cour-des-comptes
25	16	persuadade	persuade
30	22	activities	activity

THE QUESTION OF A PARLIAMENTARY COMMITTEE FOR PUBLIC ENTERPRISES

The setting up of autonomous public enterprises in many countries during the last few decades automatically raised the question of how these enterprises were to be made properly accountable to the legislature. While it is true that the creation of such autonomous enterprises by Parliament was in effect the imposition of a self-denying ordinance with a view to giving these enterprises a considerable degree of flexibility in functioning, it was at the same time thought necessary that Parliament as the ultimate repository of the electorate's interests should be in a position to exercise sufficient control over the working of such bodies to ensure that the public interest was being properly served. That there is need for Parliamentary control over autonomous enterprises is now universally recognised although there is no such unanimity about the methods to be applied. Each country has tried to evolve its own methods. One method which seems particularly to have caught the imagination of many observers is the setting up of a special committee of the legislature to be exclusively concerned with such public enterprises.

I

The System in the U.K.

The Fabian theoreticians of the Labour Party, Sidney and Beatrice Webb, had laid down, in their "A Constitution for the Socialist Commonwealth of Great Britain", that publicity and measurement were the two most potent instruments of efficiency and progress in a socialist commonwealth. They emphasised the importance of the "deliberate intensification of this searchlight of public knowledge" for successful

This information paper has been prepared for the Institute by Dr. H.K. Paranjape and Shri P.T. Kuriakose with the assistance of Shri L. Venkatesan.

functioning and indicated that persons independent of the administration and management would have to be used for carrying out the task of inspection, audit etc.¹ In spite of this, in the first measure setting up a public corporation sponsored by a Labour Government (though carried out subsequently by a Conservative Government), viz., the London Passenger Transport Bill, no specific provision was made for a system of independent inspection or parliamentary examination of a special kind. As a matter of fact, the Labour Governments which carried out the large-scale expansion of the public sector in the U.K. in the period between 1945 and 1951 did not attempt to set up any such special machinery. As early as 1946, Mr. Ernest Davies, a Labour M.P., had suggested that a special Select Committee on Public Corporations would be a very useful institution. After pointing out how routine Parliamentary Committees conducted only a post mortem on expenditure, which could have no great use in public corporations, he pointed out how useful the examination of war expenditure by the Select Committee on National Expenditure was. He also pointed out that Select Committees had considerable advantage of power to send for papers and witnesses and to undertake first hand investigations. But time being a limiting factor, instead of asking the Select Committee on Estimates to do this work, he suggested that a new committee should be appointed to embrace the whole realm of public Corporation organisation, administration and finance.² Mr. Hugh Molson, M.P., also pointed out in 1949 that

1. Quoted in W.A. Robson(ed.) Problems of Nationalised Industry, pp. 323-325.

2. Ernest Davies - National Enterprise, pp.93-94.

Parliamentary debates on wide topics like the working of nationalised industries were ineffective and that in order to supervise administration and expenditure, the proper course was to appoint a small committee with power to send for persons and papers.³ Prof. Robson himself had suggested as early as 1937, in his "Public Enterprise", the setting up of an audit commission to hold efficiency audits of public enterprises at regular intervals. In 1952, he pointed out that such an audit commission could provide the expert assistance necessary for a select committee and thought that "the two devices in combination may produce the most effective results".⁴ The Labour Government's approach, as explained mainly by Mr. Morrison, was that an outside body with a right to investigate and criticise would paralyse the administration of these enterprises but that an ad hoc enquiry once in, say, seven years or so, on the lines of the Beveridge Committee Enquiry regarding the B.E.C., ^{might} ~~may~~ be feasible and useful. The Conservative Government, on coming into power, appointed a special Select Committee of the House of Commons to consider the whole problem of accountability of nationalised industries to Parliament. The Committee, which included some Labour members also, unanimously recommended in their second report in 1953 that a special Select Committee on Nationalised Industries should be set up. The report said:-

- a) "There should be appointed a Committee of the House of Commons by Standing Order to examine the nationalised industries with power to send for persons, papers and

3. Article in the London Times, September 8, 1949, quoted in W.A. Robson, op. cit., pp. 321-322.

4. Ibid., pp. 321-322.

records, power to set up sub-committees, and to report from time to time;

- b) "The Committee should direct their attention to the published Reports and Accounts, and to obtaining further information as to the general policy and practice of the Nationalised Industries established by Statute, whose controlling Boards are wholly nominated by Ministers of the Crown, and whose annual receipts are not wholly derived from moneys provided by Parliament or advanced from the exchequer;
- c) "The object of the Committee should be that of informing Parliament about the aims, activities and problems of the Corporations and not of controlling their work;
- d) "The staff of the Committee should include an officer of the status of the Comptroller and Auditor General, who should be an officer of the House of Commons with high administrative experience, at least one professional accountant, and such other staff as required;
- e) "The statutory auditors of the Corporations shall in preparing their annual reports give such information in addition to that now provided by them as may be of use to the Committee and of interest to Parliament."⁵

Although the Committee came to this conclusion, it was by no means easily arrived at as the proposal faced a great deal of opposition. In fact, the Committee's recommendation was rather surprising because the

5. Report from the Select Committee on Nationalised Industries, 23rd July, 1953 (HMSO) p. xii.

overwhelming weight of evidence tendered before it was against the proposal. Mr. Herbert Morrison who appeared before the Committee claiming to speak on behalf of the Labour Party and the Trade Union Congress thought that if a Parliamentary Committee was set up it would lack authority on matters of managerial and industrial efficiency besides creating in those running the nationalised industries "a rather red-tapish, unadventurous and conventionally Civil Service frame of mind".⁶ Lord Reith characterised it as "institutionalising in a terrifying form the Parliamentary question".⁷ Expressing a similar opinion Sir Geoffrey Heyworth, a former Chairman of the Uniliver and at that time a part-time member of the National Coal Board said: "If people came to looking at everything I did in a year, after the event, the shareholders would be horrified because they would see that some of these decisions were quite wrong in the light of after-events. "The mere fact, therefore, that I felt that someone was looking over my shoulder all the time and was going to examine these things at any time later, the less I would be inclined to take a decision and the less decisive I would become and pretty well certainly, the less would be the results."⁸ Lord Reith

In addition to this argument that a select committee would impede the working of the enterprises and destroy initiative in them, another argument put forward by Sir Geoffrey Heyworth was that most of the enterprises had not yet had time to settle down and that in due course they would develop their own internal control and their own adequate relationships with the outside public.⁹

6. Ibid., p. 49

7. Ibid., p. 76

8. Ibid., p. 84

9. Ibid., p. vii

The weightiest evidence in favour of setting up the Committee came from Lord Hurcomb, then Chairman of the British Transport Commission. He welcomed the idea of having such a committee as it would enable the enterprises directly to speak to a responsible group in Parliament and explain their problems and policies. He felt that there were a great many misapprehensions which could be removed and Parliament would be better informed with such a committee. A Standing Committee would provide continuity of personnel - a very important point, according to the Public Accounts Committee. The approach should rather be to maintain "current contact with the future aims and policy of the undertaking".

"A Committee of this sort would, or ought to mean, ... that a large number of Members of Parliament would have an opportunity of satisfying themselves and conveying, not by way of attack and of public speech, but by way of suggestion to the organisation, the points where they thought something might be going wrong, or, at any rate, would be worth looking into". That, he thought, would be of great value to the public corporation.¹⁰ Mr. Hugh Molson M.P., then a member of the Government, reiterated his point, mentioned earlier, in the following words:

"In the past, the House of Commons has always found it convenient, when confronted with a special problem, to appoint a committee. I think the reasons for that are threefold. First, in order that a few Members of Parliament may give intensive study to the problem; secondly, that there may be interrogation of witnesses and investigation of papers and maps; thirdly, in order that in the seclusion of a committee room there may be comparative freedom from political prejudices".¹¹

10. Ibid., pp. 62-74.

11. Ibid., p. 38.

The Committee accepted the fact that the objections raised had strength behind them but ~~thought~~ that the advantages from appointing such a committee would outweigh the disadvantages, especially if proper safeguards were provided to ensure that no interference in the actual working of the enterprise would be involved. The Committee could be a liaison between the nationalised industries and Parliament. "It is essential", the Report went on to say, "that the committee which we are recommending will, when appointed, set up a tradition of conduct which will result in its being regarded by the Board not as an enemy, or a critic, but as a confidant, and a protection against irresponsible pressure, as well as a guardian of the public interests."¹²

As regards the nature and methods of work of the proposed committee, the Report went on to suggest that the Committee should take over the right of the Public Accounts Committee (which the P.A.C. had been unable ~~fully~~ ^{fully} to exercise) to examine the accounts of the nationalised industries. The proposed Committee should moreover have "a regard, not merely to present and past financial probity and stability, but to future plans and programmes."¹³ The emphasis of the Committee, it was however pointed out, should be not only upon finance but also upon general lines of policy. For this, the Committee would have power to get information as to the policy of the Corporations. To meet the objections to the proposed Committee, certain safeguards were also recommended. These were that the Committee should avoid examination and investigation of -

- 1) any decision which is the result of a direction from the responsible Minister, and for which he is accountable to Parliament;

12. Ibid., p.vii

13. Ibid., p. viii.

- ii) any matters which are normally decided by collective bargaining arrangements; and
- iii) any matters which fall into the category of detailed administration.

The Committee also discussed the question of the expert assistance to be provided to the proposed Committee. Regarding a suggestion of the President of the Institute of Chartered Accountants that the statutory auditors might be asked to make an extension of their normal duties and include a supplementary report in which they could draw attention to matters like failure to comply with the directives of Ministers, efficient management etc; the committee felt that for the sake of preserving good relations between the auditors and the corporations, such an extension of the duties of auditors would be undesirable. The Committee also considered as inappropriate a suggestion that the Comptroller and Auditor General should himself perform the work on the Nationalised Industries that he performs on the Government Departments. They recommended the appointment of a new permanent official of a status roughly equivalent to that of the Comptroller and Auditor General. He would work with the assistance of at least one professional accountant, and such other staff as the Committee ^{might} ~~may~~ deem useful. If the committee so desired, a senior official of the controlling ministry could also be sent to assist it in the examination of a particular industry.

Subsequently, during the discussion¹⁴ of the Report of the Committee in the House of Commons, further arguments/^{both} in favour and against were put forward. Most members of the Labour Party spoke against it. Some even suggested that the proposal was an attack on the policy of nationalisation. However, one of their colleagues, Mr. Ernest Davies,

14. See (U.K.) Parliamentary Debates - Commons - 1953-54, Vol. 523, Col. 833-962.

who was a member of the Committee, came out in support of the proposal. As he put it, "if those Ministers influence the nationalised industries and have close contact, quite rightly, with the Chairman and Members of the Boards, and if they then do not accept responsibility to this House, cannot answer questions on detail with which we all agree - and do not inform this House of the influence, pressure, and persuasion, or whatever it might be, that they exert on these Boards, there must be some other channel through which the House can be better informed".

The Government decisions on the Report were announced by the Minister on 13th July 1954. While accepting the major recommendation of the Committee to set up a Standing Committee of the House of Commons, its terms of reference were, however somewhat narrowed down. The change was to the effect that the Committee should enquire into only the current policy and practice of the nationalised industries and not the general policy and practice as had been recommended by the Select Committee. As far as possible only the Chairman of the enterprise (or his nominated representative) should appear before it and Ministers should normally not be invited to give evidence. Evidence tendered before the Committee should be published except when such publication would ~~not~~ be contrary to the public interest. The staff assistance to the Committee was limited to Liaison Officers from the Treasury and the Departments concerned.

Even after this announcement, the actual appointment of the Committee took some time. The first Committee was appointed in March, 1955, but as a general election took place almost immediately afterwards, a

second Committee was appointed from the new House in July, 1955. The terms of reference closely followed the recommendations of the Committee with the modifications mentioned above. In November, 1955, the Committee issued a special Report dealing with its own functions.¹⁵ It had come to the conclusion that the restricted terms of reference under which it functioned were so inhibiting that it could not usefully serve the purpose for which it had been set up.¹⁵ The Government was thus forced to re-examine the whole question and as a result, on 10th May 1956, the Prime Minister announced the appointment of a new Committee to replace the old one. The new and wider terms of reference were to be, "to examine the Reports and Accounts of the Nationalised industries established by a statute whose controlling Boards are appointed by Ministers of the Crown and whose annual receipts are not wholly or mainly derived from moneys provided by Parliament or advanced from the Exchequer."¹⁶ Explaining the reasons for this change in the scope of the Committee's work, Mr. R.A. Butler who introduced the motion for the appointment of the Committee in the House said, "We have come to the conclusion that it is wiser to try not to debar the Committee from discussing certain questions by a series of specific prohibitions-and therefore we have learned something from experience-but simply to trust the good sense and good-will of the Committee itself".¹⁷ He also mentioned some of the matters with which the Committee could usefully concern itself. These were:- (1) the financial outcome of operations; (2) the working of the industry with reference to the devolution of authority within it; (3) the working of the industry with reference to the techniques of

15. Special Report from the Select Committee on Nationalised Industries, (HMSO), 14th Nov. 1955.

16. (U.K.) Parliamentary Debates - Commons - 1955-56, Vol. 552, Col.1417.

17. (U.K.) Parliamentary Debates - Commons - 1956-57, Vol.561, Col.5, 590-602.

managerial efficiency; (4) recruitment and training; (5) relations with consumer councils and the public; (6) relations with other industries; and (7) the unremunerative responsibilities of the boards. The recommendation for the appointment of a whole time officer of the status of the Comptroller and Auditor-General was rejected but it was proposed to provide to the Committee the advice and assistance of those senior Treasury officers who were in charge of the Treasury divisions concerned with the industries in question. Mr. Butler made it clear that the approach to the problem had to be experimental. The new Committee came into **existence** on 20th December, 1956, and has been functioning ever since.

Between 1957 and 1959, the Select Committee has submitted four reports. Therefore, it is too early to say whether the Select Committee has worked successfully or not. However, according to observers, even on the basis of what it has done so far it can be said to have justified itself. Its first report, issued in October 1957, dealt with two subjects, viz. (1) the general question of Ministerial control over nationalised industries, with special reference to the extent to which the Treasury is able to exert any undue influence over their working; and (2) the North of Scotland Hydro Electric Board. The report was very favourably received by everybody concerned, including Parliament.

On 12th April 1958, the Committee issued its second report on the National Coal Board. Very wisely the Committee decided to limit the area of its examination and, accordingly, only a certain number of major topics were taken up for consideration. Not all its recommendations

were accepted by the Government, but nevertheless, the report itself was very well received and the discussions in Parliament on the Coal Industry were certainly better informed as a result of the report, showing thereby that the Committee was able to give the members a certain amount of guidance.

Encouraged by the way the two reports had been received, the Committee went ahead with the examination of another major nationalised industry, viz. the British Overseas Airways Corporation and the British European Airways. In contrast to the way in which it dealt with the Coal Board, this time the Committee made a comprehensive examination of the two corporations and also their working in relation to international air transport business. The product of its efforts was generally considered to be a brilliant one. Judged by these three reports, it can be said that the Committee has established a good reputation. It seems that it has not so far caused a feeling in the nationalised industries of interference in their internal affairs.

The fourth report of the Committee which was issued last year was in the form of an evaluation of its own working so far in respect of the assistance it required to perform its functions most efficiently. The work that the Committee has been able to do was summarised by the Chairman of the Committee in the following words, "Our job was to examine the reports and accounts, and we have first of all to try to analyse the information about the corporations that we have been studying, to sift that information and to report to the House in a way which would give them information fairly easily readable which they otherwise might not have got. That was the first function that

we put to ourselves. I think the second function is that we decided to probe certain points which seem of importance to us, and those points cover the major activities - not detailed activities - of the nationalised industries concerned and their relationship with Ministers - the twilight area between the Ministers and the Corporations. It is on those two things that we concentrated.¹⁸ While the Committee appreciated the assistance rendered to it by the officials of the Treasury and the staff of the House of Commons, it felt that it could do its work better if it were in a position to secure any assistance from outside that it may find necessary. Indeed, the Committee would prefer such assistance to come from the House itself if that were possible. However, that had not been possible in the past and, the committee felt ^{it} might not also be possible in the future. The Committee also felt that due to the very nature of its work, receiving staff assistance from Government officials might not be proper even on principle. The Report said, "The Treasury and Government ^{Departments} ~~are~~ by statute and convention excluded from a wide area of the activities of the nationalised Corporations. It would be quite wrong for the Executive to be brought into closer contact with the operations of the industries through the medium of an official acting on the Committee's behalf. For these reasons, your Committee believe that this help should come from outside the world of Government".¹⁹

The Committee concluded this special report with this statement:

"Your Committee wish to emphasise again that just as the relationship of Parliament to the nationalised industries presents a new and special

18. Special Report from the Select Committee on Nationalised Industries (Reports and Accounts), 28th July, 1959, p. 1.

19. Ibid., p. 8

problem, so ~~does~~ the provision of the right staff for a Select Committee entrusted with the task of examining¹⁹ the Reports and Accounts of these industries. Your Committee hope strongly that the House, appreciating the difficulties under which they have been working, will in a new session give special consideration to the problems discussed in this Report, with a view to the provision of some additional assistance".²⁰

II

The System in Other Countries.

Parliamentary Government in India is largely based on British institutions and experience and therefore developments in the field of accountability of nationalised industries to Parliament in Great Britain are bound to be of great interest to us in India. Therefore it was considered necessary to devote so much attention to the developments there. The situation in other countries, in so far as it is relevant to the problem under discussion, can be described more briefly.

Canada

In the case of public enterprises under the control of the Canadian Federal Government, while no special Committee to examine their working has been set up, there are already in existence a number of standing Committees of Parliament which review the financial activities of certain public corporations. The Sessional Committee on Railways and Shipping owned, operated and controlled by the Government carries out an annual review of the reports, budgets and auditors' reports of Canadian National Railways, Trans-Canada Airlines, etc. Other Committees that review the working of public enterprises are: Special Committee on Broadcasting (Canadian Broadcasting Corporation) and Standing Committee on Banking and Commerce (Bank of Canada, Industrial Develop-

20. Ibid., p. xi

ment Bank, Central Mortgage and Housing Corporation). Special Committees have been sometimes set up to review the working of other public corporations like those related to the atomic energy programme. Not all the corporations come under review regularly; those around whose functioning there is a political controversy seem to receive an unduly greater degree of attention. Moreover, some of the Committees meet much more regularly than others. As regards the effects of such enquiries, a recent study comes to the conclusion that, "From the record it does not appear that Corporate officials are hounded unfairly by the type of questioning they undergo."²¹ The Committees' assigned duty is to "consider the accounts and estimates and bills relating thereto" and so any attempt to discuss major questions of Government policy can be voted down by the majority on the Committee (which would always belong to the Government party). Corporate officials can also claim managerial discretion when they are asked questions about particular decisions of the management. To some extent, the review by the Committees may be considered by managerial officials to restrict their freedom of action and exercise of judgment; not only the actual questions asked, but the very fact that such reviews are held and so questions are likely to be asked. As the President of the Canadian National Railways once put it in his testimony, "We are obliged to account for everything that we do right here (i.e. before the Committee) and we are dealing with the sort of thing that can come up in the House of Commons at any time. Therefore we tend to hold our discretion just to those things which can be proved beyond peradventure If we were more flexible we could do more intelligent planning and perhaps do a better job-it is hard to say".²² On the other hand, the

21. Lloyd D. Musolf - Public Ownership and Accountability, the Canadian Experience, p. 123.

22. Quoted in *ibid.*, p. 124.

Committee review may also be considered useful by some corporation officials. Such was the view expressed by the Auditor General of Canada who said that the directors and managers of Corporations "feel that they have a good story to tell and that they would like to tell that story. Furthermore, they feel that there is some suspicion as to the way Crown Corporations are operated and they would like to clear themselves of that".²³

Since 1952, the accounts of Canadian public enterprises together with the auditors' reports thereon are published as a part of the Public Accounts. Thus no special reference is now required to the Public Accounts Committee for the Committee to discuss them. Moreover, the Auditor General now audits the accounts of all but seven public corporations.²⁴ But unlike its British counterpart, the Canadian Public Accounts Committee has not been very effective in its examination even of the non-corporate part of Government Accounts. As regards Corporations accounts, though it has the power to call corporation officials and even ministers for questioning, it has not done so. As Mr. Musolf says, "Committee members display a commendable diffidence in admitting that, as presently constituted and operated, their Committee may not be the best one to deal with certain Corporations' financial reports".²⁵ No thorough examinations of accounts are made by the Committee and in 1951, it recommended that "the annual report of every Crown Corporation should be referred for study to a select Committee".

One of the Canadian Provinces, viz. Saskatchewan, which has a large number of public enterprises, has a Select Standing Committee on

23. quoted in *ibid.*, p. 125.

24. *ibid.*, pp. 119.

25. *ibid.*, pp. 120.

Crown Corporations and the functions of examining the reports of these corporations has been delegated to it by the legislature. The Minister in charge presents the Reports and Accounts and answers further questions. Conventions have been developed under which questions dealing with personnel, individual commercial transactions, etc., are refused answers. "The general principle which appears to have been arrived at is that answers will be given except those which would adversely affect the competitive position of the Corporation in its operations, or which would otherwise prejudice the conduct of the Corporation's business".²⁶ This means that information is more readily provided about monopoly enterprises than about enterprises which are competing with private business. The meetings of the Committee have been considered similar to annual meetings of public companies. "But there is a difference, because there is a permanently hostile group of shareholders - the opposition - determined to find fault for political advantage."²⁷

Sweden

The administrative organisation in Sweden is in some respects very different from the British or American types with which we in India are familiar and to a certain extent the same is true about the organisation of public enterprises. Without going into this complex problem, it may be mentioned here that public enterprises in Sweden can be classified into four categories:²⁸

- 1) Revenue-producing enterprises enjoying a monopoly (e.g. tobacco, wines, lotteries etc.);

26. Allan E. Blakeney - "Saskatchewan Crown Corporations," in W. Friedman(ed). The Public Corporation, p. 103.
27. G.W. Cadbury "Public Enterprises in the Province of Saskatchewan," in A.H. Hanson (ed.) Public Enterprises; p. 111.
28. See, "Public Enterprise in Sweden" in A.H. Hanson, op. cit., pp.275-276.

- 2) enterprises of the traditional types, e.g. Railways, Posts, Telecommunications, power etc. - operated through Governmental trading agencies;
- 3) public corporations established under the Swedish Joint Stock Company Act e.g. Norrbotens Ironore Co., Central Restaurant Co., etc.;
- 4) mixed companies with Government and private shareholding.

There is no system of regular committees - Standing or ad hoc - to examine the working of any of these categories. But the Parliament can exercise some effective control and obtain information about the second category, viz. Trading Agencies, through two Parliamentary Committees. The Budget Committee (Statustkotett) controls both their investment programmes and their establishments. There is also a committee or group of twelve Parliamentary Auditors (riksdeagens revisorer) who have a general responsibility for inspecting the accounts of the State's administration including the Trading Agencies. The latter's effectiveness as an instrument of accountability is questioned by some observers. In a memorandum prepared by the Finance Department, it was stated, "In practice, the activities of the Parliamentary Auditors and their staff are limited; there is a tendency to accept the results of the General Accounting Office."²⁹ In recent years, the Parliamentary Auditors have been given the assistance of trained staff so as to increase their effectiveness.

The question of expanding the scope of these Parliamentary Auditors to include State monopolies and State Companies has led to considerable controversy. As regards State monopolies, after a controversy that lasted from 1922 to 1930, a compromise was reached. It was decided that in addition to one auditor appointed by the Crown and one by the annual meeting of the concern, three auditors were to be

29. Quoted in D.V. Verry - Public Enterprise in Sweden, p. 72.

appointed by the National Debt Office; this provided for a sort of indirect election by Parliament as the ¹¹consellers of the National Debt Office are elected by members of Parliament. As regards government companies, in 1937 it was agreed that Parliamentary Auditors should have access to the accounts of enterprises receiving State subsidies. But as regards other companies no agreement has been reached even though the question is being discussed since 1939. Of the two commissioners appointed by the Crown in 1945 to explore the problem, one supported and the other opposed the right of Parliamentary Auditors to audit the accounts of Government companies. The supporting arguments were that in State-owned companies, the right of decision often lay with an individual Minister; the complementary supervision of Parliament was obviously necessary in such a case. A further argument put forward was that when increasing demands were being made for greater publicity of the accounts and administration of private companies on the grounds that their actions affected employees and the general public, it was not proper that the knowledge of the affairs of the State companies should be confined to a few people. It was also pointed out that Trading Agencies had not suffered from Parliamentary Auditors' examinations; why should it be expected that Government companies will suffer?³⁰ The opposite arguments were partly constitutional - that State Companies were not part of State Finances; but a more important argument was that inspection by Parliamentary Auditors would revive fears that audit would become more or less a political affair, being a reflection of the dominant political views of the time instead of

30. Arguments of Mr. Orne, quoted in *ibid.*, p.99.

a factual examination. Mr. Marcus, one of the two Commissioners, said that such an inspection would "introduce a system concentrating on questions other than the commercial and economic considerations which must as a rule be the essential concern of companies".³¹ Against this, it has been said that Parliamentary Auditors' inspection would lead to much material relating to the Companies to be public in accordance with the general practice in Sweden about State affairs and this would reduce the possibility of involvement of the enterprises in the political arena. The argument is still unresolved.

It may be further mentioned that the functions of the Ombudsman, whose duty it is to supervise the execution of their duties by civil servants, do not extend to the officials of Government companies.³²

FRANCE:

The French have evolved a unique body known as the Public Undertakings Audit Board which was set up in 1948. The objective seems to be not so much to ensure Parliamentary accountability as to help the enterprises to operate most efficiently. The functions of the Board cover much more than ordinary financial audit. In fact, it makes a complete examination of the working of the enterprise and makes suggestions regarding its structure and organisation and future prospects.³³ It is an independent agency with a president of one of the chambers of the Cour-desComptes as its Chairman. It is divided into sections, each section consisting of three members of the Cour-desComptes, a representative of the Minister of Finance, and a representative of the Minister for Economic Affairs. Each section is in charge of investigating the functioning of certain types of enterprises. After completing the investigations, the section makes a report to the Minister concerned and also to the Board as a whole which after scrutiny makes a report to the Ministry of Finance. In the Ministry of Finance, the Report is further examined by its own auditors whose views are again communicated to the Board. After studying this report of the Finance Ministry, the Board gives its opinion regarding the operation of each of the enterprises it has examined in the form of a general report to

31. Quoted in *ibid*, p. 98.

32. Haken Stromberg - "The Public Corporation in Sweden", in W. Freidmann(ed.), op. cit., p. 335.

33. A.H. Hanson (ed.) op. cit., p. 211.

the Parliament, the Cabinet and the Cour-de-Comptes. These reports enable Parliament to have the considered opinion of an independent agency.

Since it was set up in 1948 the Board has done very useful work and has come to stay. The standard of its reports has been high and it has helped Parliament to discharge its duties in respect of the public enterprises much more effectively. The combination of the financial and the efficiency audit^{that}/it performs "provides an appropriate and progressive form of public supervision for State industrial and commercial enterprises. It also plays an important part in respect of the public provision of accurate information and considered views on the nationalised industries."³⁴

III

The Discussion in India.

The question has been in the forefront of discussion in India for quite some time. As early as in 1953 when the total number of public enterprises in the country was comparatively small, there was a two-day debate in Parliament about control over public undertakings. In the debate³⁵ Dr. Lanka Sunderam, ~~XXXX~~ suggested the creation of a Parliamentary committee, which could sit all the year round to look into the affairs of Governmental undertakings. This would ensure that the authority of Parliament over these undertakings became effective. This was necessary since the existing arrangement for parliamentary control over the undertakings was less than adequate.

34. Ibid., p. 212.

35. The debate took place on 10th and 11th December, 1953, in the Lok Sabha.

Some of the other arguments put forward in favour of the committee were as follows. First neither one of the two existing committees, namely the Public Accounts Committee and the Estimates Committee, had the time and the opportunity to examine the problems relating to these undertakings in a proper way. In spite of the fact that they had done some valuable work, the fact remained that the Public Accounts Committee could come into the picture only after the event and the Estimates Committee by its very constitution was not fitted to go into these questions at considerable length and in great detail; further, the examination by the Public Accounts Committee was only from the angle of treasury or administrative control. An entirely different mechanism to supplement the investigations of the Public Accounts Committee was required. Further, the fact that considerable sums of money out of the consolidated fund were voted for these enterprises gave an inherent right and competence to the Parliament to review how that money had been spent.

It was said that Parliament was handicapped in its control over these enterprises because of lack of knowledge. The proposed Parliamentary committee could furnish Parliament with material for putting meaningful questions and having more fruitful discussions; this would make it possible for Parliament to guide the Minister in policy matters with a greater measure of knowledge. The recommendations of the Select Committee of the House of Commons in England³⁶ were cited in support of setting up such a committee.

As regards the scope of the committee it was said that it would go into matters of broad policy, including matters relating to relations with the employees. It could not content itself with a post

36. Report from the Select Committee on Nationalised Industries -
23rd July, 1953 - No. 235.

mortem examination of what had happened but would try to find out whether the country was getting the maximum amount of work and service for the money that had been expended.

While the arguments in favour of the committee were put forward on the above lines, arguments against it were also put forward by some members. A fear was expressed that the committee would interfere in the day-to-day administration of the undertakings. Moreover, in the near future, with an increased number of Public Enterprises, the Parliament could not afford to have detailed information on all of them lest other important matters be neglected.

The Government's approach to the problem was explained by the then Finance Minister, Shri C.D. Deshmukh, as follows. He thought that, at the then stage of India's industrial expansion and development, there was a danger of the Parliament going too far and immersing itself too much in the day-to-day administration of the enterprises. Since the object of the proposal seemed to be that Parliament should be fully informed of what is going on, he asked whether it was necessary for the Parliament to be informed from day to day and session to session as to how a particular concern was managed and whether it was not better to enable the executive to account for the enterprises in the normal way in which Parliament always held the executive to account. He further said ^{that} ~~that~~ we should wait and see what patterns we evolve and what experience we gather regarding the working of these enterprises." He suggested as an alternative that there could be a body combining the Public Accounts Committee and the Estimates Committee instead of the proposed committee. Or else, sub-committees of the Public Accounts Committee which had already been in use, be availed for this purpose.

The subject was discussed again in Parliament during the debates on the Life Insurance Corporation Bill in 1956. While discussing the various possible means by which Parliament could have effective control over government undertakings, Shri Ashok Mehta, suggested that the idea of a committee of Parliament on Public enterprises could be considered. He referred to the 1953 debate when Shri Lanka Sunderam had raised the issue and asked why the Government was against the idea. He pointed out that it would not be possible for any member of Parliament to make a searching enquiry into the working of these undertakings without the assistance of an officer like the Auditor-General. He suggested that there should be a Standing Committee which would have the necessary equipment and requisite quota of officers to make thorough enquiries into the working of the nationalised enterprises. He added, "then members of that Standing Committee or Select Committee or Statutory Committee - whatever it is - will be in a position to come here and answer or challenge the government on various important points with the requisite information and knowledge".³⁷ This he suggested as an alternative to giving powers to the Comptroller and Auditor-General to go into the working of all Corporations. He said, "My contention is that this Parliament will not be able to exercise its supervision unless it is aided and assisted independently of Government by a set of experts to find out what is happening to different corporations".³⁸ He referred to Shri Deshmukh's suggestion³⁹ that the Estimates Committee could be expected to carry out this function and pointed out that it was no use

37. Column 8991 - India Lok Sabha Debates 1956, Part 2, Vol. 5, 9th May to 30th May.

38. Ibid., Column - 9201.

39. Earlier, Shri Deshmukh had said that the Public Accounts Committee and especially the Estimates Committee could go into these questions still further.

saying that the Estimates Committee could do this work. After all members of Parliament who were elected to a particular committee could do only a particular quantum of work. It was no use saddling different committees with varied responsibilities which were beyond human capacity to carry out. Therefore, there must be a separate committee which must have requisite expert assistance from the Parliament Secretariat.

Shri Deshmukh expressed the opinion that the Government had for the time being come to the conclusion that the existing Committees between them were able to cope with the work. It was for the Estimates Committee, or the Public Accounts Committee, or the Parliament to say and decide whether the existing arrangements were not satisfactory. If members of Parliament had a dominant feeling that the time had come to have a standing committee, it was for the House to take the decision. As for himself, he said, if he had his own way, a committee of the kind would have already been set up. But the matter had to be decided upon by the cabinet as a whole. He further said, "I am still trying to persuade them now to take steps to have a kind of committee established. This idea that there should be a Committee of the House commends itself to me What, I hope, any standing committee of the House will do will be to carry out, apart from efficiency and economy, a positive achievement audit".⁴⁰

Thus, the idea of having a parliamentary committee on Public Enterprises began slowly to gather support. Nothing decisive came out of the debates mentioned above. But from what Shri Deshmukh had said in these debates, we discern that the Government was not positively against such a Committee. It had only felt that at the then stage of India's

40. Column 9226 - India Lok Sabha Debates 1956, Part II, Vol. 5, 9th May to 30th May.

industrial expansion, the time was not opportune to have such a Committee. Further, the Public Accounts Committee and the Estimates Committee had been doing some useful work in this connection and the Government wished that they should be given further trial.

The late Shri G.V. Mavalankar, who was the Speaker of the Lok Sabha at the time of the earlier debate, felt that the time had come when something had to be done in this respect. In a letter addressed to the Prime Minister he observed that there was a general feeling in favour of appointing a Standing Parliamentary Committee to examine the working of autonomous public corporations. He pointed out that the Estimates Committee and the Public Accounts Committee were already over-burdened with work and would not be able to find time to go into the working of these Corporations. He mentioned that many questions tabled by members had to be disallowed on the ground that the Corporations were autonomous and that this was causing avoidable dissatisfaction among members. He had referred the matter to the Rules Committee which suggested that "there is no harm if a separate Committee is appointed with limited functions, such as to examine reports and the working of such bodies after the reports are presented to or are otherwise circulated to members and on matters concerning their organisation, working and administration. The proposed committee will not go into the problems of day to day administration of such Corporations, but would only consider questions of policy and their working broadly."⁴¹

The question has since been debated at great length. The much discussed Life Insurance Corporation episode further highlighted the

41. Quoted in "Parliamentary control over State Undertakings", the Report of a Sub-Committee of the Congress Party in Parliament (popularly known as the Krishna Menon Committee), p.8

problem. Although it was one of the finest examples of a case where action taken in and by Parliament resulted in detailed enquiries being made about certain policies of a nationalised undertaking, it at the same time made many members concerned conscious of the possible shortcomings of the Parliamentary machinery as it existed then to deal with such ~~cases~~. The appointment of a Committee by the Congress Parliamentary Party under the Chairmanship of Shri V.K. Krishna Menon to study this question was indicative of the urgency felt about the matter. This Committee, which had among its members some Ministers directly concerned with the running of public enterprises, came to the conclusion that the remedy lay in the appointment of a Standing Committee of Parliament. The Committee pointed out that normal parliamentary procedures are neither appropriate nor adequate for ensuring the accountability of these enterprises to Parliament. An additional reason for the setting up of such a Committee was that "there should ^{be} a group of members in Parliament who make it their business on the basis of fact and knowledge to be informed about this problem."⁴² They recommended the setting up of a Committee on the lines outlined by the Rules Committee (referred to above), to be elected on the same lines as the Estimates Committee and the Public Accounts Committee. With the setting up of such a Committee, these two Committees would cease to perform their present functions in regard to the working of the concerns that came under the proposed Committee.

The Krishna Menon Committee also liked to put in a word of caution. "We look forward," the Report said, "to the situation where this Committee, while by no means being an expert Committee, (such is not the intention), would be a well-informed Committee, informed of all

42. Ibid., p. 38.

the circumstances in which the concerns function. The purpose of our recommendation would be adversely affected if either the Committee of Parliament becomes imbued with the feeling that it is a fault finding body or that it is a Super Board of Management. At the same time, there cannot be any fettering of its judgment and the expression of its views in good parliamentary tradition. The Committee would also, no doubt, bear in mind that any public expressions of views which are intended to correct errors or to provide greater incentives in respect of any concern or all of them are not of such a character as would have the opposite result of lowering the concern in public estimation, or affect our credit or capacity to be well regard^{ed}/abroad.....

"One of the more important factors in Parliamentary intervention being at the optimum is that Parliament should be well-informed. It has been said that "a well informed Parliament would choose to interfere as little as possible in their (nationalised undertakings) day to day working". The proposed Committee would be the new machinery for this purpose. Its composition should be the concern of Parliament not only from the point of view of immediate political advantage or of patronage but in terms of long term vision and in the hope that this Committee would lay down a tempo both of the required vigilance and the restraint and take itself seriously. It may be hoped that Parliament by its own approach will also encourage both initiative and long-term planning in Government concerns. In regard to both these Government undertakings are normally backward or shy".⁴³

43. *ibid.*, pp. 38 - 39.

IV

The Main Aspects of the Problem.

The principal arguments in favour of setting up the Committee are the following. First, there is the view that the generally accepted early theories about Parliamentary control over public enterprises have to be altered to meet the demands of the present time. Public enterprises are being set up in increasing numbers and in a country like India they predominate in certain vital sectors of the economy. Moreover, they operate not so much in accordance with the dictates of the market as in accordance with the requirements of the national Plan. This being so, it is inevitable that Parliament should take more interest in their operation. But Parliament as it is constituted at present cannot devote sufficient time and attention to the problems of the ever increasing number of Public enterprises. Hence the need for a smaller body created from among itself and subordinate to it like the Public Accounts Committee to be set up.

Secondly, even if Parliament is in a position to devote sufficient time to discuss questions relating to Public enterprises, it may not be able to discharge this function properly. For one thing, it is much too unwieldy a body. Further, the overwhelming majority of the members, by training and experience, are probably not in a position, even if they so desired, to exercise the necessary vigilance over these enterprises. Hence the essential thing is to build up a certain degree of expertise among the members of Parliament. If there is a Committee of Parliament whose special function is to study the working of Public enterprises, it is inevitable that in due course a number of its members

will acquire a certain degree of knowledge which will enable them to help Parliament to discharge its function in its relation to Public enterprises more effectively. Parliamentary discussions are open to the public and if wide questions are thrown open for discussion without any guidance by an advisory Committee, the debates may not only not serve the purpose but might positively harm the efficient working of the enterprises. This is so because often ~~times~~ members are subject to different pressures. Party considerations may dominate open debates. Sometimes questions are asked and discussions initiated in Parliament which are not in the best interests of the enterprises themselves. This possibility can be avoided if there is a Committee which will scrutinize the affairs of the enterprises. A member of Parliament who wants a question to be investigated can very well ask the Committee to take up the matter rather than air it in Parliament and thereby possibly harm the reputation of the enterprise even though on subsequent enquiry the enterprise is absolved of the charges made.

Furthermore, it has been felt that in the past while the Public Accounts Committee and the Estimates Committee have done a useful job of examining the working of Public enterprises, they have not always been able to do it very effectively. As a participant in the IIPA Seminar on Public Enterprises (1957) observed, "I am afraid that the activities of the Public Accounts Committee is restricted and in any case I am fairly certain that the Estimates Committee will go into a number of areas where the Public Accounts Committee will not get the opportunity to go in. And it is my feeling that somehow the Estimates Committee has not been able to apply its mind fully to the various problems which many of these public enterprises often face. In fact, sometimes one gets the feeling that the Estimates Committee merely gives a big list of

advices. I think some of them are even contradictory. I do not consider that the Public Accounts Committee is the best agency to go into many questions that these enterprises are facing today..... I have no doubt that by having an additional Committee there will be no difficulty about the area of its activity. This can be clearly defined because public enterprises themselves form a separate pattern and a separate area. And I suppose there will be no difficulty in separating the area of activity of this Committee from the activities of the Estimates Committee".⁴⁴

The functions of the Public Accounts Committee are largely negative in the sense that the Committee can only do a kind of post mortem examination. What really is needed is a sort of guiding function on the basis of a review of past and present functioning and the policies envisaged by the enterprise management for the future. This the Estimates Committee could in principle conveniently do, but in practice it has not been able to do ~~this~~ very effectively. It is said that an examination of the reports of the Estimates Committee dealing with Public enterprises shows that the Committee has in some cases dealt with the subject in a rather cursory manner. Cases are not lacking where it has made contradictory recommendations. Often its reports give the impression that the Committee has taken up too many things in hand without being able to do justice to them. This is inevitable because of the very wide area which the Committee is expected to cover. It is also said that since in any case the Committee has adopted the practice of having sub-committees, a new committee will only actually be taking the place of a sub-committee, but with the difference that it will be specialising in a definite field. In recent years the functions of

44. Administrative Problems of State Enterprises in India, Report of a Seminar, December, 1957 (I.I.P.A.), p.10

Government have expanded beyond recognition and the pattern of its working has also changed. The Estimates Committee and the Public Accounts Committee were originally set up when these changes had not taken place. The new types of Governmental activities, of which running commercial and industrial enterprises is one, require a new kind of Parliamentary control and supervision and it is contended that this can best be achieved by setting up a special Committee.

Against these arguments may be stated various counter arguments for not setting up a new Committee. One argument is that even without adding a new Committee, if the scope of activities of the Estimates and Public Accounts Committees was gradually expanded and the manner of their functioning suitably modified, the objective could be achieved. For instance, the Estimates Committee has set up a permanent sub-committee which would specialise in questions relating to Public enterprises.

Secondly, it is pointed out that by creating a new committee it is not certain that it will be able to examine the working of more enterprises than what the Estimates Committee has been able to do. The example of the British Select Committee on Nationalised Industries is quoted in this connection.

Another contention is that a new Committee wholly dealing with Public enterprises is more likely to interfere in the day to day affairs of the enterprises than Parliament itself. Members may be tempted to bring undue pressure to bear upon those running the enterprises and this inevitably will have harmful effects on the healthy growth of the public sector in the country. Moreover, even a special Committee will need an expert staff to assist it. Without an expert staff, it is not likely to fare any better than the Estimates Committee, and, it is said, if the

Estimates Committee was provided with such an expert staff, it would also be able to fulfil the functions which a new standing Committee is expected to perform because what the Estimates Committee lacks at present is adequate expert assistance.

This last point brings up the question of the expert assistance to be provided to the special Committee, if one is set up, or to the Estimates Committee, if that Committee is to continue in this field. We have already mentioned above the recommendation made by the British Select Committee on Nationalised Industries before the setting up of the special Select Committee there. The Government there rejected the idea that there should be a new whole time officer of the status of the Comptroller and Auditor General to assist the Committee on the ground, in the words of Mr. Butler, that this "would tend to fix the pattern of the Select Committee's work too definitely and too finally".⁴⁵ We have also seen how the special Select Committee itself thought that the assistance it obtained from officers of the Treasury and the Ministries concerned, while valuable, was inadequate. In India also, attention will have urgently to be paid to this problem. For a proper review of the enterprises, assistance in the fields of technology, accounting, economics and administration will be required. There would be various alternative methods of doing this. One would be to set up an Efficiency Audit Bureau on the lines of the Public Undertakings Review Board in France and this body could make its reports available to the Committee and also carry out any special examination that the Committee wanted it to carry out. The other would be for the Committee to build up a secretariat with

45. (U.K.) Parliamentary Debates - Commons - 1956-57, Vol.561, Col.601.

experts from all these fields. The difficulties in this alternative would be that (i) sufficiently senior and experienced persons may not be readily available on a full time and permanent basis for such work; and (ii) with the varying nature of the problems in different enterprises, the same experts will not be useful in examining all the enterprises. This will be especially true of technologists. A way out may be for the Committee to build up a small secretariat with a few junior level experts and then invite some senior suitable experts to assist it on either full time or part time basis for each enquiry separately.

The argument is still going on. However, the wind seems to be blowing in favour of the Special Committee. Numerous seminars and discussion groups which have studied the question have, by and large, have supported it. If the British experience is of any guidance in the matter, the experiment seems a useful one.